

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231*sk*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/610,510 07/06/00 ROTH

S ROTH #12

EXAMINER

PM82/0720

THOMAS R LAMPE
BIELEN LAMPE & THOEMING
1990 NORTH CALIFORNIA BLVD SUITE 720
WALNUT CREEK CA 94596

SY, H

ART UNIT

PAPER NUMBER

3632

DATE MAILED:

07/20/01

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/610,510

Applicant(s)

ROTH, STEVEN A.

Examiner

Holly Sy

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first office action for application number 09/610,510, Apparatus For Stiffening A Hanger Rod, filed on July 6, 2000.

Specification

The disclosure is objected to because of the following informalities:

1. page 2, line 21, "rod" should be plural,
2. page 3, line 1, "DISCLOSURE OF INVENTION" should be replaced with ---SUMMARY OF THE INVENTION---, and
3. page 6, line 2, "MODES FOR CARRYING OUT" should be replaced with ---DETAILED DESCRIPTION OF---.

Appropriate correction is required.

Claim Objections

Claims 1-2 and 4-9 are objected to because of the following informalities:

1. claim 1, line 1, "Stiffener" should be replaced with ---A stiffener---,
2. claim 1, lines 2-3, ", in combination" should be deleted,
3. claim 1, line 5, "----each of which is---" should be inserted after "segments",
4. claim 6, line 2, ---elongated--- should be inserted before "stiffener" for the purpose of consistency,
5. claim 7, line 2, ---elongated--- should be inserted before "stiffener" for the purpose of consistency,
6. claim 8, line 2, ---elongated--- should be inserted before "stiffener" for the purpose of consistency, and

7. claims 1-2, 4-5 and 9, Applicant combines different elements together throughout the claims such as the following: claim 1, line 5, "first and second clamp segments" which should be rewritten as separate elements (i.e. first clamp segment and second clamp segment, said first clamp segment and said second clamp segment).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "a hanger rod" in line 16. It is uncertain whether Applicant is referring to the same hanger rod as recited in claim 1, line 2 or an entirely different hanger rod. Therefore, the claim is deemed vague and indefinite.

Claim 2 recites the limitation "the location" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Claims 1-9 are treated as if applicant's intent is to claim merely the subcombination of the *stiffener apparatus* and not the *stiffener apparatus* in combination with the *hanger rod or a predetermined position*. The *hanger rod and predetermined position* are considered functionally recited. In formulating a rejection on the merits, the

examiner is considering that the claims are drawn to the subcombination and claims 1-9 will be rejected accordingly.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,318,561 to Finke et al. Finke et al. discloses a stiffener apparatus (note attached marked-up copy of Figs. 1-2) including a clamp 21, a plate 10, nuts 46 and an elongated stiffener member 51. Finke et al. discloses that the clamp has two straight, double-ended, spaced, parallel first clamp segment 19 and second clamp segment 20, and a third clamp segment 21a,21b integral with and extending between an end of the first clamp segment and an end of the second clamp segment. In addition, Finke et al. discloses that the plate 10 (note Fig. 3) defines spaced openings 17,18 where the ends of the first and second clamp segments which are remote from the third clamp segment project through the openings (note Figs. 1-2).

Finke et al. also discloses that nuts threadedly engage with the ends of the first and second clamp segments which project through the openings (note Figs. 1-2). Furthermore, Finke et al. discloses that the elongated stiffener member is disposed between the plate and the third clamp segment (note Fig. 2) wherein at least a portion 21a,21b of the third clamp segment is straight and non-orthogonally disposed relative to

the first and second clamp segments and cooperable with the elongated stiffener member to continuously exert lateral forces.

Finke et al. also discloses that the third clamp segment includes an interconnected first straight portion 21a and second straight portion 21b extending at obtuse angles with respect to the first and second clamp portions (note Fig. 2). Additionally, Finke et al. discloses that the first and second portions connect at a location X1 substantially midway between the first and second clamp segments. Finally, Finke et al. discloses that the stiffener member has a circular-shaped outer peripheral bearing surface (note Fig. 2).

Claims 1, 3, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,713,613 to Searls. Searls discloses a stiffener apparatus (note attached marked-up copy of Figs. 3 and 6) including a clamp C1, a plate 24, nuts 38,39 and an elongated stiffener member 29. Searls discloses that the clamp has two straight, double-ended, spaced, parallel first clamp segment 32' and second clamp segment 32", and a third clamp segment 32 integral with and extending between an end of the first clamp segment and an end of the second clamp segment. In addition, Searls discloses that the plate defines spaced openings where the ends of the first and second clamp segments which are remote from the third clamp segment project through the openings (note Figs. 3 and 6).

Searls also discloses that nuts threadedly engage with the ends of the first and second clamp segments which project through the openings. Furthermore, Searls discloses that the elongated stiffener member is disposed between the plate and the

third clamp segment wherein at least a portion of the third clamp segment is straight and non-orthogonally disposed relative to the first and second clamp segments and cooperable with the elongated stiffener member to continuously exert lateral forces. Searls also discloses that the third clamp segment is substantially straight along its length and forms an obtuse angle with the first clamp segment and an acute angle with the second clamp segment. Finally, Searls discloses that the stiffener member has a channel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finke et al. Finke et al. disclose the invention substantially as claimed and as applied to the claims above. However, Finke et al. does not disclose that the first and second portions connect at a location closer to either one of the first and second clamp segments than the other or that the stiffener member has a rectangular-shaped bearing surface.

It is common knowledge in the prior art to make clamps with different shaped third segments for the purpose of clamping one objects of different shapes and sizes to another. It is also common knowledge in the prior art to make stiffeners of various cross-section such as a rectangular one for the purpose supporting objects thereon. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the Finke et al. stiffener apparatus with a third segment where the first and second portions connect at a location off center from the first and second clamp segments and an rectangular-shaped stiffener in order to provide a stiffener that can securely clamp various shaped objects.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable in view of U.S. Patent to 3,595,505 to Burwell et al. Claim 1 of copending Application 09/836,955 discloses the invention substantially as claimed. Claim 1 of copending Application 09/836,955 discloses a stiffener apparatus including a clamp, a plate, nuts and an elongated stiffener member. Claim 1 of copending Application 09/836,955 discloses that the clamp has two straight, double-ended, spaced, parallel first clamp segment and second clamp segment, and a third clamp segment integral with and extending between an end

of the first clamp segment and an end of the second clamp segment. In addition, Claim 1 of copending Application 09/836,955 discloses that the plate defines spaced openings where the ends of the first and second clamp segments which are remote from the third clamp segment project through the openings and defines an indent.

Claim 1 of copending Application 09/836,955 also discloses that nuts threadedly engage with the ends of the first and second clamp segments which project through the openings. Furthermore, Finke et al. discloses that the elongated stiffener member is disposed between the plate and the third clamp segment. However, Claim 1 of copending Application 09/836,955 does not disclose that the plate defines an indent. Burwell et al. discloses a plate 32 defining an indent 32d for the purpose of securely clamping onto a post (note marked-up copy of Fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the stiffener apparatus of Claim 1 of copending Application 09/610,510 with the plate of Burwell in order to provide a clamping apparatus that can clamp different shaped object.

This is a provisional obviousness-type double patenting rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,793,580 to Richards

U.S. Patent 5,403,032 to Hellwig

U.S. Patent 5,718,403 to Ott et al.

U.S. Patent 6,138,407 to Pierce, Jr.

Japanese Patent JP 2000-318640

German Patent DE 199 46 802 A1

The above patents disclose various types of stiffener apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Sy whose telephone number is (703) 605-1183.

The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Holly Sy
Patent Examiner
Technology Center 3600
Art Unit 3632
July 16, 2001



LESLIE A. BRAUN
SUPERVISOR, PATENT EXAMINER

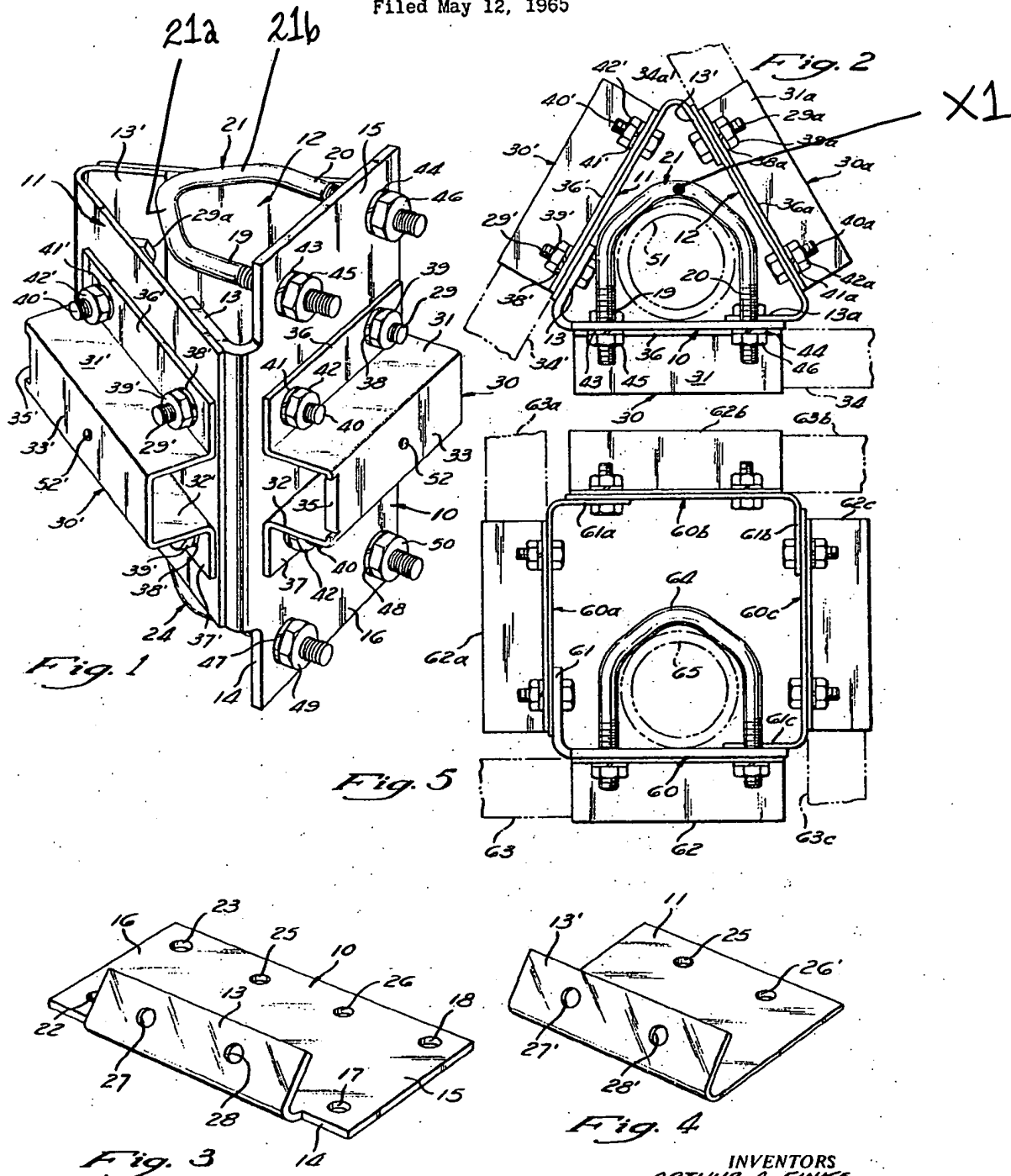
May 9, 1967

A. A. FINKE ET AL

3,318,561

ANTENNA SUPPORT BRACKET

Filed May 12, 1965



INVENTORS
 ARTHUR A. FINKE,
 LARRY H. KLINE,
 HAROLD PINKER,
 BY ARCHIBALD ROBERTSON, JR.
 Ely, Holnick & Flynn
 ATTORNEYS

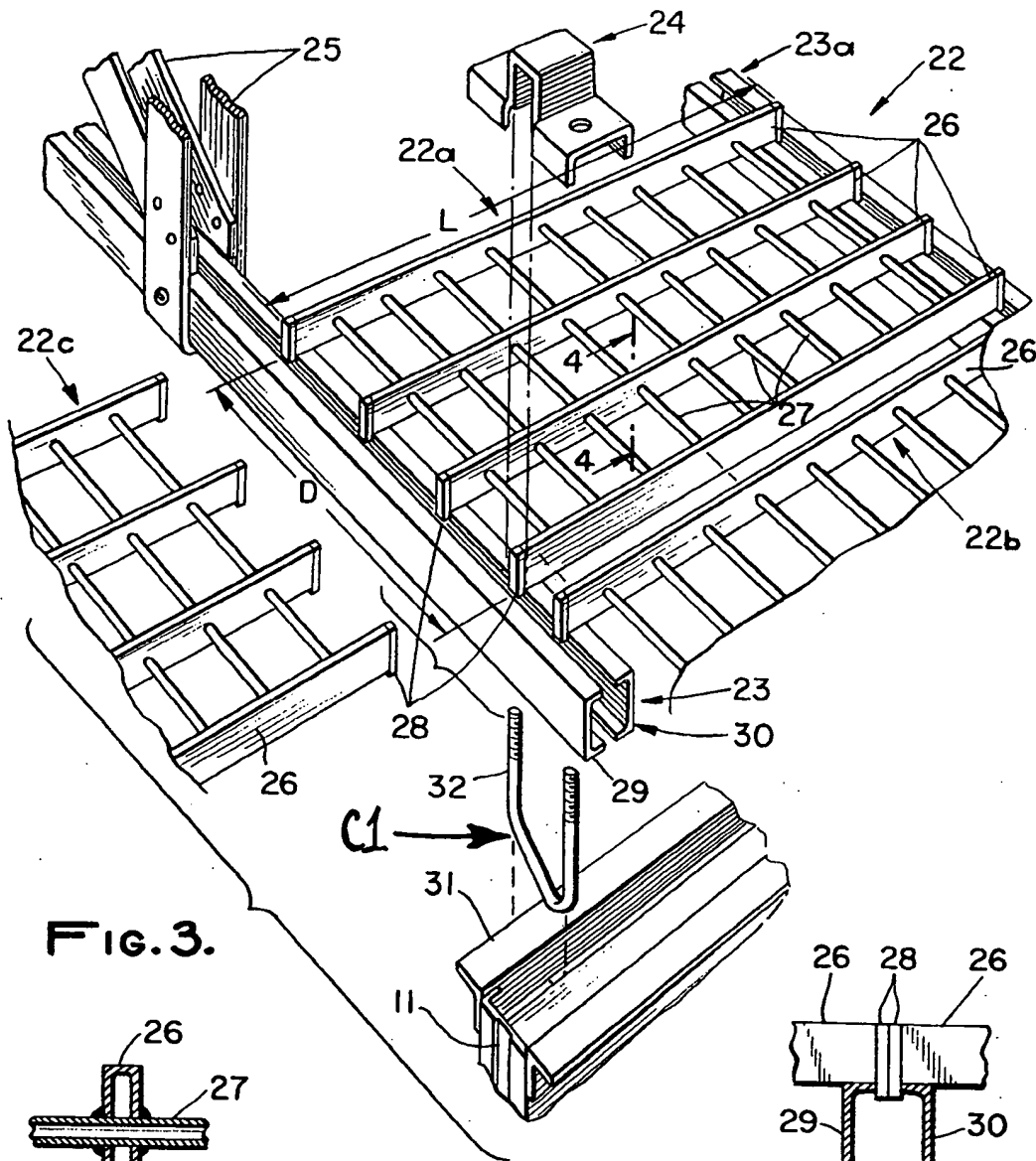


FIG. 3.

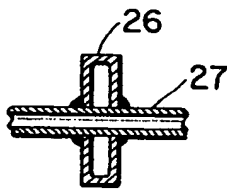


FIG. 4.

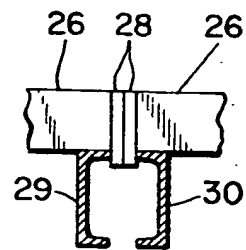


FIG. 5.

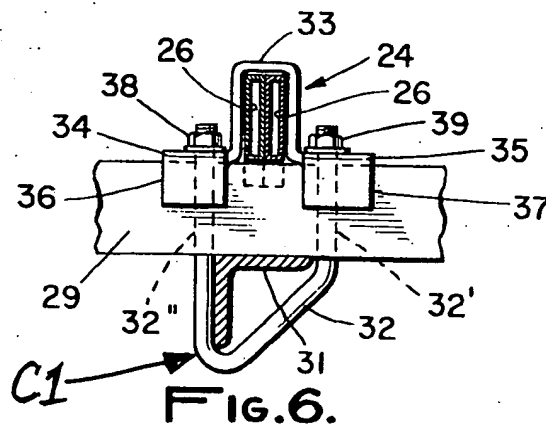


FIG. 6.

PATENTED JUL 27 1971

3,595,505

SHEET 1 OF 2

Fig. 1.

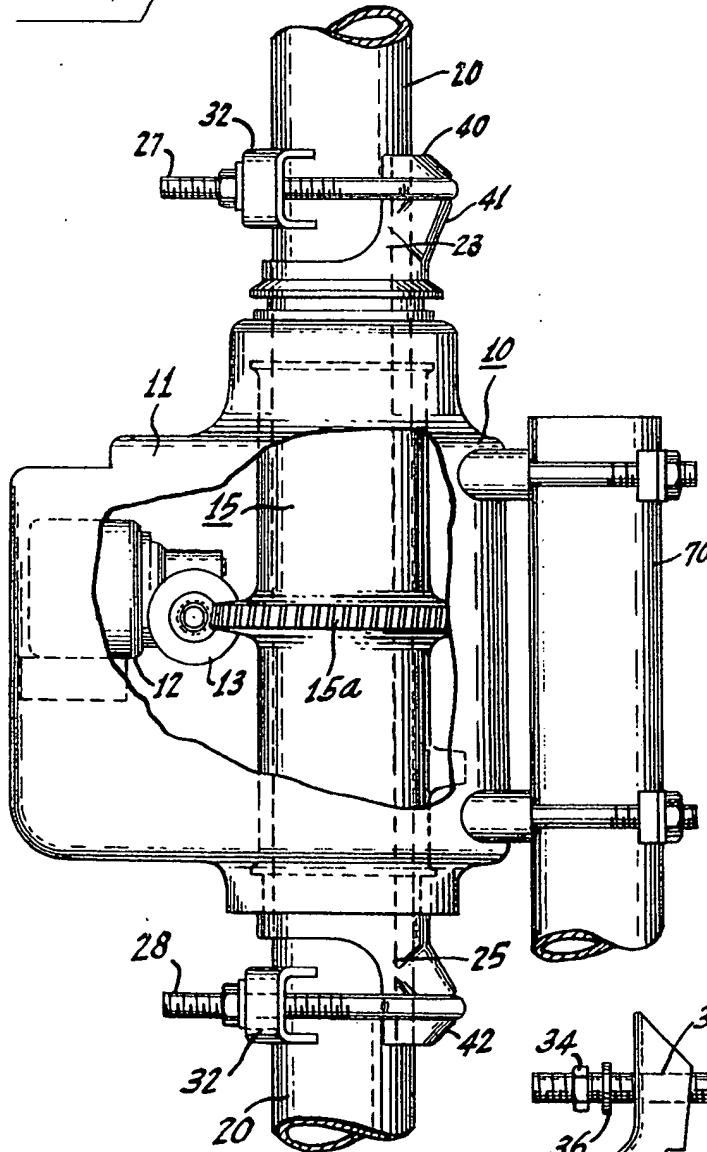


Fig. 3.

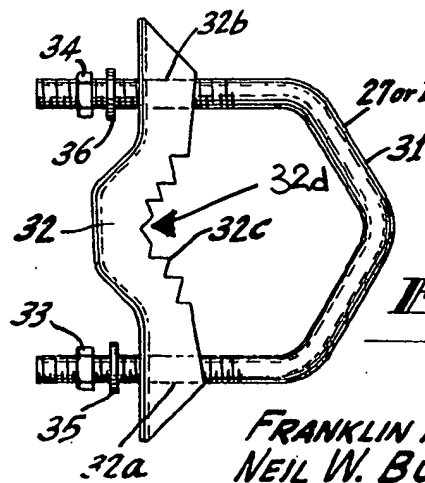
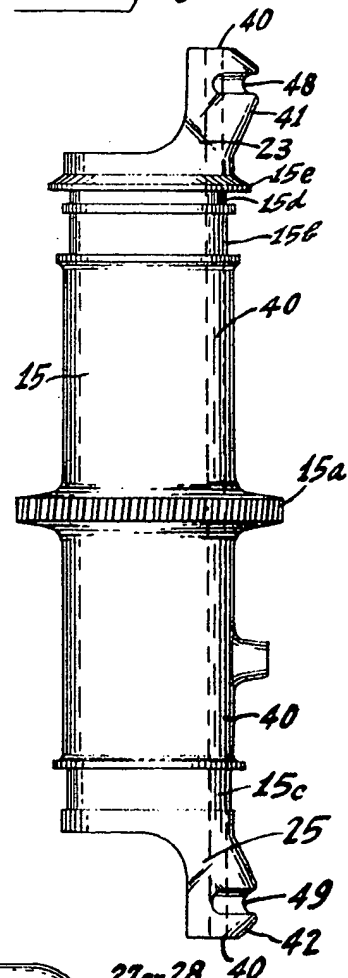


Fig. 2.

INVENTORS
FRANKLIN R. DIMED &
NEIL W. BURWELL

BY Edward J. Naton